



OFFICE OF THE
STATE AUDITOR

Comment Period: In an effort to make our publications accurate and useful to our intended audience, we invite individuals who work for and with local government entities to read this draft and provide comment. The comment period will last 30 days. Comments should be submitted to Jeremy Walker at jeremywalker@utah.gov by May 5, 2017.

Auditor Alert 2017-01 Draft

Date: April 5, 2017

Subject: Violations of State Nepotism Laws by Public Entities

The Office of the State Auditor (Office) has recently investigated or been advised of instances where public entities may have violated state nepotism laws by having a relative working under the direct supervision (within the chain of command) of a public official (including employees) within their entity.

Utah Code 52-3-1(2)(a) states that, with few exceptions, “No public officer may employ, appoint, or vote for or recommend the appointment of a relative in or to any position or employment, when the salary, wages, pay, or compensation of the appointee will be paid from public funds and the appointee will be directly supervised by a relative. In addition, Utah Code 52-3-1(2)(b) states that “No public officer may directly supervise an appointee who is a relative when the salary, wages, pay, or compensation of the relative will be paid from public funds.” Utah Code 52-3-1(1) defines relative as: a father, mother, husband, wife, son, daughter, sister, brother, grandfather, grandmother, uncle, aunt, nephew, niece, grandson, granddaughter, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

It is our understanding that “directly supervised” means supervision by anyone *within the chain of command*, particularly in regards to overseeing day-to-day activities. In other words, “directly supervised” is not limited to supervision by an *immediate* supervisor. Thus, hiring a relative of anyone in the chain of command—from the chief administrative officer (who is ultimately responsible for the appointment of all personnel) to the immediate supervisor over the position—could violate nepotism laws.

Since Board members do not generally oversee the day-to-day activities of employees within an entity, the law appears to prohibit the hiring of relatives who directly report to the Board but to otherwise allow an entity to hire such relatives. However, in line with Utah Code 52-3-1(2)(a), Board members should *not* be involved in the hiring process.